

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA)	
)	
v.)	2:23cr164
)	Electronic Filing
MARQUES COFFEY)	

MEMORANDUM ORDER

AND NOW, this 10th day of January, 2025, upon due consideration of defendant's motion to dismiss Count Three¹ of the indictment based on Article 1, § 8 of the Constitution, IT IS ORDERED that [41] the motion be, and the same hereby is, denied.

As defendant acknowledges in his motion, this court is bound by the majority opinion in United States v. Rybar, 103 F.3d 273 (3d Cir. 1996), which rejected a Commerce Clause challenge to Congress's authority to enact 18 U.S.C. § 922(o). See ECF No. 41 at 3 ("Mr. Coffey acknowledges that the Court remains bound by the majority opinion in Rybar until the Third Circuit reconsiders . . ."); see also United States v. Green, 610 F. Supp. 3d 711, 731 (W.D. Pa. 2022) ("As a general rule, there are—appropriately and of necessity—very significant constraints on this Court's authority to call into question the continued force of a precedential holding of the Third Circuit."). Notwithstanding defendant's belief that "Rybar was wrongly decided," the decision continues to be mandatory authority for this court. ECF No. 41 at 3. Accordingly, his motion to dismiss urging this court to hold otherwise must be denied.

s/David Stewart Cercone
David Stewart Cercone
Senior United States District Judge

¹ While the title of defendant's motion refers to Count Two of the indictment, the discussion therein relates only to Count Three. See Indictment, ECF No. 3 at 2–3 (charging defendant with possession of a firearm in furtherance of a drug trafficking crime in violation of 18 U.S.C. § 924(c)(1)(A)(i) at Count Two, and unlawful possession of a machinegun in violation of 18 U.S.C. § 922(o)(1) at Count Three).

cc: Nicole A. Stockey, AUSA
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(Via CM/ECF Electronic Mail)